

**Remarks of
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I. Introduction

Good afternoon.

It's great to be back in Brussels. I have a lot of terrific memories coming here and working very successfully with Directors from all over the EU. So, being here today is a fantastic opportunity for me to speak with the EU export community, face-to-face.

Export control and industrial base issues are what I know. It's what I've spent my career pursuing. It hasn't always been the most head-turning member of our national security apparatus. It hasn't always grabbed the most headlines.

But we're suddenly a hot topic for a lot of people both in and outside of government.

Since President Obama took office, we now have as forceful an advocate for far-reaching export control reform as I've seen in a generation.

At the President's request, Defense Secretary Gates, Secretary of State Clinton and Secretary Locke, my boss, are spearheading the drive to create a 21st Century export control system that strengthens our national security and ensures our businesses enjoy robust trade especially with close and trusted allies.

President Obama's focus on export control reform is as timely as it is essential.

The world we live in, and the world all of you do business in, is changing - rapidly.

International business is more sophisticated than ever. Globalized research, product development, and supply chains are now the norm, not the exception. Companies increasingly have presences in Boston and Brussels, but also in Bangalore and Beijing.

But, not everything in the world has changed. Our adversaries may have changed but we still face serious threats. There's no shortage of people who want to harm us. We face terrorists, weapons proliferators and rogue regimes who seek to turn our technologies against us, our allies, and the troops we have serving together on foreign soil, like in Iraq and Afghanistan.

And so our new export control system must be geared to this new reality. It must ensure our industries' competitiveness, and yet maintain dynamic and precise controls.

Getting this calibration right, between security and competitiveness will maximize our economy and our safety.

President Obama gets this dynamic. Two weeks ago, at his State of the Union address he explained our need to adapt:

“Our success in this new and changing world will require reform, responsibility, and innovation,” the President said.

“Just as jobs and businesses can now race across borders, so can new threats and new challenges. No single wall separates East and West. No one rival superpower is aligned against us.”

“And so,” the President continued, “We must defeat determined enemies, wherever they are, and build coalitions that cut across lines of region and race and religion.”

(Pause)

II. Need for Change

This is what export control reform is about: adapting and thriving in a world with new rules. It’s about partnering with allies and enlisting industry to ensure sophisticated technology can be traded amongst friends, but kept away from our enemies.

The only way to move forward is to first take stock of where we are and how we arrived here. Our export control regime has not kept pace with geopolitical changes or innovations in industries.

For instance, our current system operates under two different control lists with distinctly different approaches to identifying and controlling products.

The Department of State administers the Munitions List, which generally includes items specifically designed for military applications, a concept as opaque as it is outdated.

And the Commerce Department administers the Commerce Control List, or CCL, which is a far more specific list of mostly “dual use items” -- that is commercial items that could have military applications -- items like truck parts, electronic components and even computers.

There are three primary U.S. licensing agencies – each with different procedures and different information technology systems – and scores of different regulatory definitions.

It would be hard for anyone to argue that this existing system is maximizing our security or is a model of efficiency.

The Munitions List was created during the Cold War. Most of the items used by the military were developed by, or solely for the military. But times have changed. The commercial sector alone now develops nearly two-thirds of the technologies our military uses.

For exporters and companies with production lines spread across the globe, time they could be spending creating innovative, game-changing products to sell in different countries is instead spent navigating a confusing and time-consuming export control bureaucracy.

An equally disturbing phenomenon is that U.S. companies are sometimes being “engineered out” of collaborative foreign projects due to U.S. export control requirements.

We have heard of examples of sales contracts including provisions that explicitly bar the use of U.S.-manufactured articles because companies don’t want to have to deal with our export control system.

America puts our exporters in an untenable position when we forbid or delay them from selling a widely available item to an overseas market even when comparable foreign items face no similar restrictions from their home country.

III. Reforming the USML

And so, we're making changes.

Our ultimate goal is to create one list that will include every item or technology that requires control; have one agency that will administer these controls; have one enforcement coordination agency that handles every investigation of criminal violations; and run everything using one IT platform.

Achieving this goal will take time. Nothing happens over night. And some of these steps will require concurrence and legislation from Congress.

But make no mistake: changes are already underway.

We're already in the midst of three far-reaching updates to how items are classified and controlled:

First, we're harmonizing, as much as possible, the way the Munitions List and the Commerce Control List control items, software and technology. Together with the Department of Defense, the Department of State is converting the Munitions List into a positive list, one not dissimilar to the CCL.

Second, we're creating a harmonized, three-tiered licensing system that will apply in the same manner to items on both the Munitions List and the CCL.

And third, we're streamlining the licensing process for exporting controlled items to close allies and partners. By doing this, our licensing agencies can spend more of their time scrutinizing exports of more sensitive items to more sensitive destinations.

These steps will make our export control system more transparent and predictable. It will enable exporters to quickly know what can and cannot be exported, and where products can and cannot go.

And this reform is already underway. The first step is the transformation of the State Department's Munitions List.

In December, State published a proposed rule that turns Category VII of the Munitions List into a "positive list". This means that Tanks and Military Vehicles, and the parts that go into making these will no longer be classified by the traditional "design intent" standard.

Instead, the State Department is proposing to control these items on a "positive list" that uses empirical measurements to classify an item, such as microns and horsepower, or wavelengths and hertz.

By the end of this process we'll have two distinct positive lists that will clearly articulate what is, and what is not controlled. The State Department will administer one list, and Commerce will administer the other. We will have created a so-called "bright line" separating the two lists.

In the final phase of export reform, we plan to merge the two lists into one – and we will continue to work with our colleagues on Capitol Hill to make this happen.

But even now, we're well on our way to making this a reality.

By early 2012, we expect the entire Munitions List will be turned into a positive list.

Many items deemed to be militarily insignificant will move from the Munitions List to the CCL.

Bolts, screws and blankets, for instance, which heretofore were listed on the Munitions List will now be distinguishable from items that truly have a "military utility". Technical specifications

and functions, and not a so-called “design intent”, will soon determine which agency controls which item.

What we’ve found so far is that about 74 percent of the licensing activity for Category VII items is for parts and components which, going forward, will likely be moved to Commerce jurisdiction.

For small and medium-sized businesses, or SMEs, this change will mean big business.

Moving military blankets and bolts onto the CCL will enable SMEs to be more competitive, and yet won’t jeopardize our national security or undermine our international commitments.

Of course, there will be exceptions to these lists. And where an item is found on both lists, performance parameters will distinguish between the two.

For example, all weaponized armored vehicles will be controlled on the Munitions List. But cameras that enable the vehicle to see in the dark may be controlled on both lists. If the camera is cryogenically cooled, for instance, it may remain on the Munitions List, if it’s not cooled in this manner, it may end up on the CCL.

IV. Tiering

So what will happen once we have these two lists sorted out?when every item that might need an export license is placed on one of two lists?

The next step is to implement common criteria for classifying items on both lists.

Representatives from across the US government are currently discussing the outline that will guide this unified licensing policy.

Here’s how it will work:

Each of the two lists will be divided up into a three-tiered structure. This tiering will distinguish tightly controlled items from those more permissively controlled. And each tier will take into account the item’s availability:

Think of the tiers as shelves in a cabinet:

- The top tier – or the highest shelf – will be reserved for the most sensitive items, ones available only in the U.S., and which provide a critical military or intelligence advantage. These will include WMD and items that can be used to make WMD – items that Secretary Gates has called “the crown jewels” of US technology;

- The middle tier – or a more accessible shelf – will include items that provide a substantial military or intelligence advantage, and will be products that are available almost exclusively from the U.S. and our multilateral partners and allies;

- The lowest tier will be reserved for items that provide a significant military or intelligence advantage, and which are more broadly available. These will include items that are controlled for National Security, Foreign Policy, or human rights reasons.

These tiers will improve our national security and our competitiveness by permitting the government to adjust controls in a timely manner over a product’s life cycle.

So, as technology that was once cutting edge becomes more commonplace and widespread, it can be controlled at a lesser level.

V. Licensing Policies

Once all of the items are placed into a tier, a corresponding licensing policy will be assigned to ensure appropriate agency review.

For the top tier, a license will generally be required for all destinations;

Many of the items in the middle tier will be eligible to be exported to allies and most multilateral partners under a license exception or general authorization;

And for items placed in the lowest tier, licenses for items not considered proliferation concerns will typically not be required.

Of course, we will continue to maintain robust and comprehensive sanctions against countries like Iran, North Korea and Cuba.

This new tiered licensing policy system is more than just talk among government officials – it's about to become reality.

In December, the Commerce Department published a Proposed Rule that will make it easier for our close allies to receive many items on the Commerce Control List and for many other countries to receive certain items with limited military applications without a license.

This Strategic Trade Authorization License Exemption will authorize exports, re-exports and in-country transfers to destinations that are deemed to pose little risk of unauthorized uses. At the same time, new safeguards will ensure that these items are not re-exported to unauthorized destinations without U.S. Government approval.

Our EU and other European partners stand to benefit significantly from STA. We expect more than 2,000 licenses will be eliminated to these destinations.

And, if all goes well, we hope to issue a Final Rule within weeks.

VI. Conclusion

I'd like to conclude by noting that the restructuring and harmonization of control lists and licensing policy that is already under way has been groundbreaking.

Change is in the air. More updates are going to happen very soon.

In the coming months, there will be many more notices in the Federal Register, and we will be conducting outreach visits to exporters in the US and end-users around the world.

I want to again urge everyone here today to provide input so that we can make this initiative as successful as possible.

This overhaul to our current export controls regime can only be successful if industry takes an active role in its development.

So please remember these dates:

The comment period for the STA License exception closes today. So, please submit your comments as soon as possible. If you give us comments in the next day or two, we'll still try to consider them;

Comments on how to make the CCL into a more transparent and useful "positive list" are also due today;

And, comments on the Department of State transformation of the Munitions List into a “positive list” and on the proposed new Category VII are due tomorrow.

We’re seeking your input. We know we can benefit from your experience.

Going forward, it’s critical for us to develop an export control framework that is strong enough to deter our enemies, yet flexible enough to let great minds around the globe share and develop groundbreaking innovations.

I hope all of you will help us accomplish this critical objective.

Thank you for your time, and for having me here today.

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